

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
ROBERT W. KRAUSE, M.D.)
Certificate No. C-28583)
)
Respondent.)
_____)

No. D-5660

DECISION

The attached Stipulation is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on August 24, 1994.

IT IS OR ORDERED July 25, 1994.

By: Alan E. Shumacher
ALAN SHUMACHER, M.D.
Secretary
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 MARK T. ROOHK,
Deputy Attorney General
3 300 South Spring Street
Los Angeles, California 90013
4 Telephone: (213) 897-2568

5 Attorneys for Complainant
6

7 BEFORE THE
DIVISION OF MEDICAL QUALITY
8 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) No. D-5660
12 Against:)
13 ROBERT W. KRAUSE, M.D.) STIPULATION
Box 5601)
14 Middletown, California 95461)
15 Physician's and Surgeon's)
Certificate No. C28583,)
16 Respondent.)
17

18 IT IS HEREBY STIPULATED by and between the parties to
19 the above captioned matter that the following is true:

20 1. Robert W. Krause, M.D. (hereinafter "respondent")
21 was issued physician's and surgeon's certificate number C28583 by
22 the predecessor in interest to the Medical Board of California
23 (hereinafter "Board") on or about October 19, 1966. The license
24 has been in full force and effect at all times relevant herein.

25 2. On or about January 25, 1994, complainant Dixon
26 Arnett, acting solely in his official capacity as Executive
27 Director of the Board, caused to be filed accusation number

1 D-5660 (hereinafter "accusation"), setting forth causes for
2 disciplinary action against respondent's physician's and
3 surgeon's certificate. The accusation, together with all
4 required supporting documentation, was duly and properly served
5 upon respondent by certified mail and was received. Respondent
6 thereafter filed a timely notice of defense² contesting the
7 charges and allegations in the accusation.

8 3. Complainant is represented in this matter by Daniel
9 E. Lungren, Attorney General of the State of California, by and
10 through Mark T. Roohk, Deputy Attorney General.

11 4. Respondent is representing himself in this matter.

12 5. Complainant and respondent are desirous of
13 resolving this matter without further administrative proceeding.

14 6. Respondent has read and reviewed the charges and
15 allegations set forth in the accusation, and from the materials
16 served upon him is aware of his right to an administrative
17 hearing on those charges and allegations; his right to confront
18 and cross-examine witnesses called to testify against him; his
19 right to the use of process to secure oral and documentary
20 evidence both in defense and mitigation of those charges and
21 allegations; his right to petition the Board to reconsider any
22 decision which might be rendered adversely to him following a
23 hearing; and his right to petition the courts of the state of
24 California for review and appeal pursuant to the provisions of
25 the Code of Civil Procedure.

26 7. Respondent knowingly and intelligently waives and
27 gives up each and every one of the above enumerated rights, and

1 agrees that the pending charges and allegations set forth in
2 accusation number D-5660 may be resolved pursuant to this
3 stipulation.

4 8. Respondent has not been forced, coerced,
5 threatened, or induced in any way into entering into this
6 stipulation.

7 9. For purposes of settlement of this matter and all
8 subsequent proceedings before the Board, respondent admits to the
9 truth of the allegations of paragraph 7 of the accusation (using
10 alcohol in such a manner as to be a danger to the public
11 violation of Business and Professions Code section 2239(a)) and
12 paragraph 8 of the accusation (being intoxicated while treating
13 patients, in violation of Business and Professions Code section
14 2240).

15 10. For purposes of settlement of this matter, and for
16 no other purpose, complainant agrees to dismiss the remaining
17 allegation of the accusation.

RESERVATION

11. This stipulation and the admissions, agreements, and waivers contained herein shall not be admissible in any subsequent civil or criminal proceeding to which the Medical Board of California or Division of Medical Quality is not a party.

26 WHEREFORE, based upon the foregoing, it is agreed that
27 the Division may enter the following:

1 ORDER

2 Physician's and surgeon's certificate number C28583,
3 previously issued to Robert W. Krause, M.D., is revoked; however,
4 revocation is stayed, and respondent is placed on probation for a
5 period of five (5) years under the following terms and
6 conditions:

7 A. ACTUAL SUSPENSION. As part of probation,
8 respondent is suspended from the practice of medicine for ninety
9 (90) days beginning the effective date of this Decision.

10 B. PSYCHIATRIC EVALUATION. Within 30 days of the
11 effective date of this decision, and on a periodic basis
12 thereafter as may be required by the Division or its designee,
13 respondent shall undergo a psychiatric evaluation (and
14 psychological testing, if deemed necessary) by a Division-
15 appointed psychiatrist who shall furnish a psychiatric report to
16 the Division or its designee.

17 If respondent is required by the Division or its
18 designee to undergo psychiatric treatment, respondent shall,
19 within 30 days of receiving such notice, submit to the Division
20 for its prior approval the name and qualifications of a
21 psychiatrist of respondent's choice. Upon approval of the
22 treating psychiatrist, respondent shall undergo and continue
23 psychiatric treatment until further notice from the Division.
24 Respondent shall have the psychiatrist submit quarterly status
25 reports to the Division. The Division shall pay the cost of the
26 initial evaluation, and respondent shall pay the cost of any
27 subsequent therapy or treatment.

1 C. ALCOHOL--ABSTAIN FROM USE. Respondent shall
2 abstain completely from the use of alcoholic beverages.

3 D. BIOLOGICAL FLUID TESTING. Respondent shall
4 immediately submit to biological fluid testing, at respondent's
5 cost, upon the request of the Division or its designee.

6 E. DIVERSION PROGRAM. Within 30 days of the effective
7 date of this decision, respondent shall enroll and participate in
8 the Division's Diversion Program until the Division determines
9 that further treatment and rehabilitation is no longer necessary.
10 Quitting the program without permission or being expelled for
11 cause shall constitute a violation of probation.

12 F. COST RECOVERY. Respondent shall reimburse the
13 Board for the investigation and enforcement of this matter. That
14 amount shall be \$500, and shall be paid in equal quarterly
15 installments of \$125 during the first year of probation.

16 G. OBEY ALL LAWS. Respondent shall obey federal,
17 state, and local laws, and all rules governing the practice of
18 medicine in California.

19 H. QUARTERLY REPORTS. Respondent shall file quarterly
20 declarations, under penalty of perjury, on forms provided by the
21 Division, stating whether there has been compliance with all the
22 conditions of probation.

23 I. SURVEILLANCE PROGRAM. Respondent shall comply with
24 the Division's probation surveillance program.

25 J. INTERVIEW WITH MEDICAL CONSULTANT. Respondent
26 shall appear in person for interviews with the Division's medical
27 consultant upon request and with reasonable notice.

1 K. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE.

2 The period of probation shall not run during the time respondent
3 is residing or practicing outside the jurisdiction of California.
4 If, during probation, respondent moves out of the jurisdiction of
5 California to reside or practice elsewhere, respondent is
6 required to immediately notify the Division in writing of the
7 date of departure, and the date of return, if any.

8 L. VIOLATION OF PROBATION. If respondent violates
9 probation in any respect, the Division, after giving respondent
10 notice and the opportunity to be heard, may revoke probation and
11 carry out the disciplinary order that was stayed. If an
12 Accusation or Petition to Revoke Probation is filed against
13 respondent during probation, the Division shall have continuing
14 jurisdiction, and the period of probation shall be extended,
15 until the matter is final.

16 M. COMPLETION OF PROBATION. Upon successful
17 completion of probation, respondent's certificate shall be fully
18 restored.

19 CONTINGENCY

20 12. It is expressly stipulated and agreed by the
21 parties that in the event the Division fails to adopt this

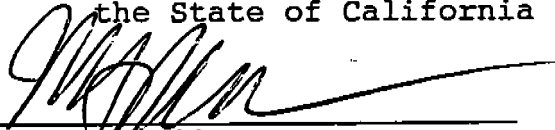
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1 stipulation, the admissions, waivers, and agreements set forth
2 herein shall be null and void and inadmissible at any subsequent
3 proceeding.

4 ENDORSEMENT

5 DATED: 9 May 1994

DANIEL E. LUNGREN, Attorney General of
the State of California


6 
7

8 MARK W. ROOHK
9 Deputy Attorney General
Attorneys for Complainant

10 ACCEPTANCE

11 I have read and reviewed the foregoing stipulation and
12 order, and I understand its contents and legal effects. Pursuant
13 to the terms and conditions of the order, my physician's and
14 surgeon's certificate will be revoked; however, revocation will
15 be stayed, and my certificate will be placed on probation for a
16 period of five (5) years under the terms and conditions set forth
17 above, including a ninety (90) day suspension and both a
18 psychiatric and Diversion program evaluation. I voluntarily
19 enter into this stipulation and agree to be bound by its terms
20 with the understanding that if I fail to comply with any of the
21 terms, my certificate will be subject to further discipline.

22 DATED: 4 MAY 1994

23 
24 ROBERT W. KRAUSE, M.D.
25 Respondent
26
27

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12 Against:)
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Box 5601)
14 Middletown, California 95461)
15 Physician's and Surgeon's)
Certificate No. C28583,)
16 Respondent.)
17

18 COMES NOW DIXON ARNETT, complainant herein, and as
19 causes for disciplinary action alleges as follows:

20 1. He is the Executive Director of the Medical Board
21 of California, Division of Medical Quality (hereinafter
22 "Division"), and makes and files this accusation solely in his
23 official capacity.

24 2. On or about October 19, 1966, the Medical Board of
25 California issued physician's and surgeon's certificate number
26 C28583 to Robert W. Krause ("respondent"). The license was in
27 full force and effect at all times relevant herein.

1 3. Pursuant to Business and Professions Code sections
2 2220 and 2227(a), the Division may take action against all
3 persons guilty of violating the provisions of the Medical
4 Practice Act (Business and Professions Code section 2000 et seq.)
5 and, after a hearing or default in which a licensee is found
6 guilty, may revoke or suspend a physician's and surgeon's
7 certificate, or place such a certificate on probation.

8 4. Business and Professions Code section 2234 provides
9 that the Division shall take action against any licensee who is
10 charged with unprofessional conduct, which includes:

11 "(a) Violating or attempting to violate, directly or
12 indirectly, . . . any provision of [the Medical Practice Act].

13 "(b) Gross negligence.

14 ". . ."

15 5. Business and Professions Code section 2239(a)
16 provides in pertinent part that the use of alcoholic beverages to
17 the extent or in such a manner as to be dangerous or injurious to
18 the licensee or to any other person or to the public, or to the
19 extent that the use impairs the ability of the licensee to
20 practice medicine safely, constitutes unprofessional conduct.

21 6. Business and Professions Code section 2240 provides
22 that every licensee who, while in actual attendance on patients,
23 is intoxicated to such an extent as to impair his or her ability
24 to conduct the practice of medicine with safety to the public and
25 his or her patients, is guilty of unprofessional conduct.

26 7. Respondent has subjected his certificate to
27 discipline under Business and Professions Code sections 2234(a)

1 and 2239(a) in that he has used alcoholic beverages in such a
2 manner as to be dangerous to the public and to such an extent as
3 to impair his ability to practice medicine safely. The
4 circumstances are as follows:

5 A. On or about May 5, 1992, respondent, while employed
6 by Management Health Services/Western Health ("Western"),
7 was working out of a mobile health clinic parked in a
8 shopping center parking lot in Simi Valley, examining
9 patients and drawing blood. While on duty, respondent was
10 intoxicated to the point that two of the patients he was
11 treating reported his behavior to a police officer who was
12 on patrol in the neighborhood. After making contact with
13 respondent, the officer formed the opinion that respondent
14 was intoxicated, and instructed him to close down the clinic
15 for the day, and requested that respondent's medical
16 assistant drive him home. Respondent's employment was
17 terminated by Western that same day.

18 B. Respondent's actions constitute unprofessional
19 conduct within the meaning of section 2239(a).

20 8. Respondent has subjected his certificate to
21 discipline under Business and Professions Code sections 2234(a)
22 and 2240 in that respondent, while in actual attendance on
23 patients, was intoxicated to such an extent as to impair his
24 ability to practice medicine with safety to the public. The
25 circumstances are as follows:

26 A. Paragraph 7(A) is hereby incorporated by reference
27 as if set forth in full at this point.

1 B. Respondent's actions constitute unprofessional
2 conduct within the meaning of section 2240.

3 9. Respondent has subjected his certificate to
4 discipline under Business and Professions Code section 2234(b) in
5 that respondent has committed acts of gross negligence. The
6 circumstances are as follows:

7 A. Paragraph 7(A) is hereby incorporated by reference
8 as if set forth in full at this point.

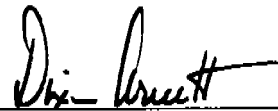
9 B. Respondent's actions constitute unprofessional
10 conduct within the meaning of section 2234.

11 WHEREFORE, complainant prays that a hearing be held on
12 the matters alleged herein, and following said hearing the
13 Division issue a decision:

14 1. Revoking or suspending certificate number C28583,
15 previously issued to Robert W. Krause, M.D.; and

16 2. Taking such other and further action as the
17 Division deems necessary and proper.

18
19 DATED: January 25, 1994



20
21 DIXON ARNETT
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California
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